

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

CALEB LOREN VELVICK,	)	
	)	
Petitioner,	)	
	)	
-vs-	)	Case No. CIV-16-1374-F
	)	
BRYAN ANTONELLI, Warden,	)	
	)	
Respondent.	)	

**ORDER**

On March 31, 2017, United States Magistrate Judge Bernard M. Jones issued a Report and Recommendation, recommending that (1) respondent's motion to dismiss petitioner's 28 U.S.C. § 2241 habeas corpus petition be granted; (2) any claims not addressed by respondent's motion be dismissed pursuant to Rule 4 of the Rules Governing Habeas Corpus Cases in the United States District Courts; (3) to the extent petitioner's claims arise under 28 U.S.C. § 2255, those claims be dismissed for lack of jurisdiction; and (4) petitioner's motion to appoint counsel be denied.

Petitioner has timely objected to the Report and Recommendation and respondent has filed a response. In accordance with 28 U.S.C. §636(b)(1), the court has conducted a de novo review of the matter. Having done so, the court concurs with the analysis of Magistrate Judge Jones. The court need not repeat that analysis here. Further, the court agrees with respondent and declines to address the new argument advanced by petitioner for the first time in his objection. Marshall v. Chater, 75 F.3d 1421, 1426 (10<sup>th</sup> Cir. 1996) (Issues raised for the first time in an

objection to the magistrate judge's recommendation are deemed waived). The court thus accepts, adopts and affirms the Report and Recommendation in its entirety.

Accordingly, the Report and Recommendation issued by United States Magistrate Judge Bernard M. Jones is **ACCEPTED, ADOPTED** and **AFFIRMED**. Respondent's Motion to Dismiss Petition for Habeas Corpus (doc. no. 13) is **GRANTED**. Any claims not addressed by respondent's motion are **DISMISSED** pursuant to Rule 4 of the Rules Governing Habeas Corpus Cases in the United States District Courts. To the extent petitioner's claims arise under 28 U.S.C. § 2255, those claims are **DISMISSED** for lack of jurisdiction. Petitioner's Motion to Appoint Counsel (doc. no. 14) is **DENIED**.

IT IS SO ORDERED this 30<sup>th</sup> day of May, 2017.



---

STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE

16-1374p003.docx